

In the Ravalli County Justice Court, Hamilton, Montana

_____	)	<b>SMALL CLAIMS DIVISION</b>
Plaintiff	)	
	)	
	)	
vs	)	
	)	
_____	)	Before Judge _____
Defendant	)	Case Number _____
	)	COMPLAINT / ORDER OF COURT

The Plaintiff, being first duly sworn, upon oath, and complains and alleges that the Defendant is indebted to the Plaintiff in the sum of \$ \_\_\_\_\_ for \_\_\_\_\_

and/or the return of the following personal property \_\_\_\_\_

which is due and owing despite demands for the same, together with Plaintiff(s) costs of suit in this action.

Subscribed and sworn to on \_\_\_\_\_

JUSTICE OF THE PEACE

By \_\_\_\_\_  
Clerk, Justice Court, Small Claims Division

\_\_\_\_\_  
Plaintiff's signature

\_\_\_\_\_  
Plaintiff's mailing address

\_\_\_\_\_  
City/state/zip code

\_\_\_\_\_  
Plaintiff's phone number

**Order of the Court / Notice to Defendant**

The State of Montana to Defendant: You are hereby Ordered and directed to appear and answer this Complaint at the Ravalli County Justice Court/Small Claims Division, Ravalli County Courthouse, Hamilton, MT on the date and time indicated below:

Hearing \_\_\_\_\_ at \_\_\_\_\_

Reset for \_\_\_\_\_ at \_\_\_\_\_

Reset for \_\_\_\_\_ at \_\_\_\_\_

You are notified that within 10 days of service of the Complaint, you may remove this case from Small Claims to Justice Court and failure to remove shall constitute a waiver of your right to a jury trial and waiver to be represented by counsel. You may assert a counterclaim against the Plaintiff by executing a sworn Counterclaim and having it personally served on the Plaintiff not less than 72 hours before the hearing date.

You must bring with you all books, papers, and witnesses needed by you to establish your defense to the claim. You are further notified that if you do not appear, judgment may be taken against you by default for the relief demanded in the Complaint and for costs of suit, including costs of service of the Complaint/Order. At least 10 days prior to trial, you must provide the Plaintiff with copies of all documents which you intend to introduce at trial, together with a list of witnesses expected to testify. Any subpoenas must be issued at least 10 days prior to trial.

Dated \_\_\_\_\_

JUSTICE OF THE PEACE

By \_\_\_\_\_ Clerk \_\_\_\_\_

*To Sheriff / Process Server: please make service on Defendant at the following address [do not list a post office box]:*  
\_\_\_\_\_

# Small Claims Court

## A CITIZENS GUIDE

*Information  
Provided by the  
Office of Attorney General  
Department of Justice  
State of Montana*

## SMALL CLAIMS COURT: CHECKLIST

### PLAINTIFF

\_\_\_\_ Before filing a Complaint, you must first send a certified letter to the Defendant demanding payment by a specific time. A copy of the letter must be attached to the Complaint. At trial, you will need to provide proof of mailing the letter.

\_\_\_\_ The sum of money or value of property being sought must not exceed \$3000.

\_\_\_\_ The action must be filed in the County where Defendant lives or in a County where the Defendant can be served.

\_\_\_\_ Consider using a mediator or third party to assist in settling the dispute.

\_\_\_\_ Complete all information on the Complaint / Order, including names of the parties, addresses and phone numbers. If you are suing a corporation, make sure the correct legal name is listed. You must pay a \$20 filing fee; however, if you cannot afford the fee, you may complete an affidavit requesting the Court to waive the fee.

\_\_\_\_ In filing the Complaint, provide the appropriate number of copies.

\_\_\_\_ Request the Court to issue subpoenas for witnesses you will need at trial.

\_\_\_\_ If Defendant is not served at least 5 days before the trial, a new hearing date must be set.

\_\_\_\_ Bring all evidence, documents, and witnesses to the trial.

\_\_\_\_ If case settles prior to trial, file a signed statement with the Court and request that the case be continued without date or dismissed.

\_\_\_\_ Appeals of a Court's decision must be filed within 10 days from the date of the Judgment.

### DEFENDANT

\_\_\_\_ A trial date is listed on the Complaint/Order. If you are unable to appear on that date or if you cannot be prepared by that date, ask the Court to reschedule the trial.

\_\_\_\_ You may settle with the Plaintiff out of Court; if a settlement is reached, a written agreement, signed by both of the parties, must be filed with the Court.

\_\_\_\_ Consider using a mediator or third person to assist in settling the dispute.

\_\_\_\_ If you prefer to a trial by jury or want an attorney to represent you, you must file a motion within 10 days from the date you were served with the Complaint/Order and request that the case be removed to Justice Court.

\_\_\_\_ You may file a Counterclaim with the Court, providing the amount does not exceed \$2500. The basis for the Counterclaim must relate to the same issue stated in the Plaintiff's Complaint.

\_\_\_\_ The Counterclaim must be served on the Plaintiff at least 72 hours prior to trial by the Sheriff's Office or process server.

\_\_\_\_ You must pay a fee of \$15 to file a Counterclaim. If you cannot afford the fee, request an affidavit to waive costs.

\_\_\_\_ Before the trial, request the Court to issue any subpoenas necessary for witnesses which you wish to have testify on your behalf.

\_\_\_\_ Bring all evidence, documents, and witnesses to the trial.

\_\_\_\_ Appeals of a Court's decision must be filed within 10 days from the date of the Judgment.

## MAXIMUM CLAIM

The amount at issue in a small claims case cannot exceed \$3000

The amount of claim must be a fixed amount that is easily determined, such as a balance on a bill. Small claims court cases do not address “damages” claimed for some sort of wrong. Claims may be filed in the County where the Defendant lives or in the County where the Defendant can be served.

## FEES

A fee is required to file a Complaint or Counterclaim. Once a Complaint is filed, the Court will issue an Order to appear, and a process server or Sheriff’s Office will deliver the Complaint/Order to the Defendant. There is a fee for service of the Complaint/Order on the Defendant. It is possible to recover some of these fees as part of the resolution of a case.

## TIME LINES

A hearing must be scheduled within 40 days of the date the Complaint is filed

A Defendant must be given at least five days notice before the hearing

The parties may ask the Court for more time. Typically, such a request must be made before the date of the hearing

## COUNTERCLAIMS

If a Defendant believes the Plaintiff owes him/her money, a Counterclaim may be filed:

The Counterclaim must involve the same dispute as the original Complaint

The counterclaim must be served on the Plaintiff by the Sheriff’s Office or a process server at least 72 hours before the scheduled date of the hearing

The amount of the Counterclaim cannot exceed \$2500

## SETTLEMENT OPTIONS

Sometimes it is possible to settle disputes before the hearing and avoid small claims Court altogether. If a settlement is reached after the Complaint is filed, a written agreement should be signed by the parties and a copy filed with the Court.

## SUBPOENAS

A party may ask the Court to issue subpoenas for witnesses. A witness can voluntarily accept service of a Subpoena; otherwise, a party must make arrangements through the Sheriff’s Office or process server to have the Subpoena served.

## ATTORNEYS

Attorneys are not permitted in Small Claims Court unless both parties are represented by counsel.

### TRIAL

The parties will be sworn and will, therefore, testify under oath. Facts will be presented, with each party telling their side of the story. Plaintiff will first present his/her case, and the Defendant will follow.

Both sides may present evidence and call witnesses. Each side may also question the other person, as well as his or her witnesses, and may ask questions about any evidence presented to the Court.

### JUDGMENT AND RESOLUTION

The Judgment is a written decision of the Judge. The prevailing party is entitled to collect the disputed amount, as well as costs of suit.

Collection of payment of a Judgment is the responsibility of the Judgment Creditor. If the Judgment Debtor fails to pay, there are options for collections (i.e., through a Writ of Execution).

### APPEAL

If either side is dissatisfied with the Court's Judgment, the case may be appealed to District Court. The appeal must be in writing and must be made within 10 days from the date the Judgment is signed.

An appeal addresses questions of law only; in other words, an assertion that the law was incorrectly applied to the case. The District Court Judge will not re-try the case or accept new evidence or testimony. The District Court Judge will review the transcript and evidence, and make a decision accordingly.

### LIMITATIONS

A party may not file more than 10 claims in a calendar year, except claims involving shoplifting.

### GLOSSARY

Plaintiff: the person alleging that he/she is owed money or property.

Defendant: the person or party who allegedly owes money or property.

Counterclaim: if a Defendant disagrees with the original claim and instead believes he/she is owed money or property from the Plaintiff, a counterclaim can be filed.

Subpoena: legal document issued by the Court compelling a witness to appear at trial.

*Neither the Judge nor the Clerks can provide any legal advice. If you have questions, refer to the Montana Statutes and, in particular, Sections 25-35-501 to 25-35-807, or you may seek advice from an attorney*

*Ravalli County Justice Court  
205 Bedford Street, Suite F  
Hamilton, Montana 59840*

IN THE RAVALLI COUNTY JUSTICE COURT, HAMILTON, MONTANA

_____	)	<div style="border: 1px solid black; padding: 5px; display: inline-block;">SMALL CLAIMS DIVISION</div>
Plaintiff	)	
	)	
	)	
	)	Before Judge _____
vs	)	
	)	Case Number _____
_____	)	
Defendant	)	Praecipe _____

TO: Sheriff/Constable/Process Server

Serve the attached Complaint/Order of Court upon Defendant(s) at the following location:

Home	_____	Hours	_____
Work	_____	Hours	_____
Other	_____	Hours	_____

Please make your return and a statement for your services to [your name and address]:

\_\_\_\_\_

Dated \_\_\_\_\_

\_\_\_\_\_  
Plaintiff's Signature

Please read these guidelines before filing the Complaint

*These are basic guidelines relating to a small claims action. You are responsible for proceeding under the rules set forth in the Montana Statutes. Neither the Judge nor the Clerk can provide advice or interpretation of law as it relates to a small claims suit. Please review the attached "Citizens Guide" before filing the Complaint. If you have questions or are unsure about certain procedures, seek legal advice from an attorney or refer to the Montana Statutes. They can be accessed on line at [http://data.opi.state.mt.us/bills/mca\\_toc/index.htm](http://data.opi.state.mt.us/bills/mca_toc/index.htm)*

Pre-filing requirement:	Before filing a Complaint, a certified letter must be sent to Defendant demanding payment or return of property. A copy of the letter must be attached to each copy of the Complaint at the time of filing.
Jurisdictional Limits:	Recovery of personal property or money, not to exceed \$3000
Service on Defendant:	Defendant must be served in Ravalli County
Signing the Complaint:	Complaint must be signed before a Ravalli County Clerk of Court.
Filing fee:	\$20

FORMS/COPIES

**You must provide sufficient copies or the Complaint will not be filed**

PRAECIPE: Complete the heading and provide a physical address in Ravalli County where the Defendant can be served. *No copies of the Praeipe are required.*

COMPLAINT: Complete the heading. Indicate the amount of money being requested and a brief description of what it represents, or describe the personal property you want returned. Complete Defendant's address at the bottom of the page.

*Required copies: original Complaint with a copy of the demand letter attached; copy of the Complaint for the Court with a copy of the demand letter attached; copy of the Complaint for each Defendant with a copy of the demand letter and a copy of the Citizens Guide attached; copy for your records.*

SERVICE OF COMPLAINT ON DEFENDANT

The Plaintiff - not the Court - is responsible for arranging service on the Defendant pursuant to the Montana Statutes. Service may be made by the Sheriff's Office or process server. Individual process servers who have posted their numbers on the bulletin board. The Defendant must be served at least 5 days prior to trial. If service has not been made within that time, return all the Complaints to Justice Court so the hearing can be re-scheduled.

The return of service must be filed with the Court at least 5 days prior to the hearing